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9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2014-0407]

RIN 1625-AA08

Special Local Regulation; Great Race On The Sea, Powerboat Race,  
Atlantic Ocean, Long Beach, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

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SUMMARY: The Coast Guard is proposing a temporary special local regulation on the navigable waters of the Atlantic Ocean off Long Beach, NY during the Great Race On The Sea Powerboat Race. This action is necessary to provide for the safety of life of participants and spectators during this event. Entering into, transiting through, remaining, anchoring or mooring within these regulated areas would be prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Requests for public meetings must be received by the Coast Guard on or before [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Scott Baumgartner, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468-4559, [Scott.A.Baumgartner@uscg.mil](mailto:Scott.A.Baumgartner@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl

Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
<u>A. Public Participation and Request for Comments</u>	

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that

you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2014-0407] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

## 2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2014-0407) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### 3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

### 4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES on or before [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

### B. Regulatory History and Information

In 2013, the Event Sponsor, Great South Bay Racing Inc. sponsored a similar powerboat racing event that was held in the same location, with the same race course, in the same timeframe but with a different event name, "Long Beach Regatta". The Coast Guard issued a temporary final rule entitled, "Special Local Regulations: Long Beach Regatta, Powerboat Race, Atlantic

Ocean, Long Beach, NY" that was effective on August 25, 2013 for this event.

#### C. Basis and Purpose

The legal basis for this proposed rule is 33 U.S.C. 1233 and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory special local regulations. This rule would establish a special local regulation in order to provide for the safety of life on navigable waters during the Great Race On The Sea Powerboat Race.

#### D. Discussion of Proposed Rule

Great South Bay Racing Inc. is sponsoring the Great Race On The Sea Powerboat Race, an offshore powerboat race, located on the Atlantic Ocean off Long Beach, NY. The event will span two days with race trials and practice runs conducted on Saturday, August 23, 2014 from 8:30 a.m. until 3:30 p.m., and the actual races conducted on Sunday, August 24, 2014 from 8:30 a.m. until 6:30 p.m. The event will feature six classes of offshore powerboats including vessels from the Extreme Class which can reach speeds up to 150 miles per hour during the race. The sponsor expects a minimum of 5,000 spectators for this event with a portion of them expected to view the event from recreational vessels.

The COTP Sector Long Island Sound has determined the combination of increased numbers of recreational vessels in close proximity to this event and registered event participants operating powerboats at high speeds have the potential to result in serious injuries or fatalities. This special local regulation proposes temporary regulated areas to restrict vessel movement around the location of the powerboat race to reduce the risks associated with racing vessels operating within congested waterways. For these reasons the Coast Guard is proposing three temporary regulated areas on the Atlantic Ocean, from 8:30 a.m. to 3:30 p.m. on August 23, 2014 and from 8:30 a.m. to 6:30 p.m. on August 24, 2014:

(1) Race Course Area. This area is for the exclusive use of registered event participants, safety, support, and official vessels.

(2) No Entry Area. This area serves as a buffer zone that separates racing vessels from spectators.

(3) Spectator Viewing Area. This area is for the exclusive use of spectator vessels. The sponsor will mark this area.

The geographic locations of these regulated areas and specific requirements of this rule are contained in the regulatory text.

Because a number of spectator vessels are expected to congregate around the location of this event, these regulated

areas are needed to protect both spectators and participants from the safety hazards created by them, including powerboats traveling at high speeds and congested waterways. During the enforcement periods, persons and vessels would be prohibited from entering, transiting through, remaining, anchoring or mooring within the regulated areas unless stipulated otherwise or specifically authorized by the COTP or the designated representative. The Coast Guard may be assisted by other federal, state, and local agencies in the enforcement of these regulated areas.

The Coast Guard determined that these regulated areas would not have a significant impact on vessel traffic due to their temporary nature and the fact that vessels are allowed to transit the navigable waters outside of the regulated areas.

The Coast Guard has ordered special local regulations and safety zones for this event when it was held in different locations and has received no public comments or concerns regarding the impact to waterway traffic. Advanced public notifications would be made to the local maritime community through all appropriate means which may include, but is not limited to, Local Notice to Mariners and Broadcast Notice to Mariners.

#### E. Regulatory Analyses

We developed this proposed rule after considering numerous



statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

#### 1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this proposed rulemaking is not a significant regulatory action because the regulated areas would be of limited duration and vessels may transit the navigable waterways outside of the regulated areas. Additionally, persons or vessels requiring entry into the regulated areas may be authorized to do so by the COTP Sector Long Island Sound or designated representative.

Advanced public notifications would also be made to local mariners through appropriate means, which may include but is not limited to, Local Notice to Mariners and Broadcast Notice to Mariners.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit, anchor or moor within the regulated areas on August 23, 2014 from 8:30 a.m. to 3:30 p.m. and on August 24, 2014 from 8:30 a.m. until 6:30 p.m.

This proposed temporary special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: the regulated areas are of short duration, vessels that can safely do so may navigate in all other portions of the waterways except for the areas designated as regulated areas, and vessels requiring entry into the regulated areas may be authorized to do so by the COTP Sector Long Island Sound or designated representative.

Additionally, before the effective period, public notifications would be made to local mariners through appropriate means, which may include but is not limited to, Local Notice to Mariners and Broadcast Notice to Mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### 4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C.

3501-3520.) .

## 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

## 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the

distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of special local regulations. This rule may be categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. We

seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects

#### 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recording requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

#### PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

2. Add § 100.35T01-0407 to read as follows:

§ 100.35T01-0407 Special Local Regulation; Great Race On The Sea, Powerboat Race, Atlantic Ocean, Long Beach, NY.

(a) Regulated Areas. All coordinates are North American Datum 1983 (NAD 83).

(1) "Race Course Area": all navigable waters of the Atlantic Ocean off Long Beach, NY within the following boundaries: Beginning at point "A" at position 40°34'15.84" N, 073°36'03.82" W, then west to point "B" at position 40°34'06.68" N, 073°40'09.27" W, then north to point "C" at position 40°34'48.56" N, 073°40'08.70" W, then east to point "D" at

position 40°34'53.33" N, 073°36'14.93" W, then south to the point of origin, point "A".

(2) "No Entry Area": a buffer zone comprising all navigable waters of the Atlantic Ocean surrounding the "Race Course Area" and extending from the south border 700 feet outwards, from the east and west borders 1000 feet outwards and from the north border extending to the shoreline.

(3) "Spectator Viewing Area": all navigable waters of the Atlantic Ocean off Long Beach, NY within the following boundaries: Beginning at point "A" at position 40°34'00.59" N, 073°35'53.34" W, then west to point "B" at position 40°33'54.27" N, 073°38'33.75" W, then north to point "C" at position 40°34'03.29" N, 073°38'34.11" W, then east to point "D" at position 40°34'09.15" N, 073°35'56.24" W, then south to the point of origin, point "A".

(b) Special Local Regulations.

(1) In accordance with the general regulations found in section 100.35 of this part, entering into, transiting through, anchoring or remaining within the regulated areas is prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound, or designated representative.

(2) The following persons and vessels are authorized by the COTP Sector Long Island Sound to enter areas of this special local regulation:



(i) "Race Course Area": registered event participants, safety, support, and official vessels.

(ii) "No Entry Area":

(A) Registered regatta participants, safety, support, and official vessels may transit to or from the "Race Course Area" at a speed of 25 knots or less when racing is halted.

(B) Swimmers may utilize all shoreline waters up to 100 feet from shore (i.e. end of the jetties).

(iii) "Spectator Viewing Area": spectator vessels engaged in viewing the powerboat race.

(3) All persons and vessels shall comply with the instructions of the COTP Sector Long Island Sound or designated representative. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means the operator of a vessel shall proceed as directed.

(4) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas must contact the COTP Sector Long Island Sound by telephone at (203)-468-4401, or designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the COTP Sector Long Island Sound or designated

representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Sector Long Island Sound or designated representative.

(5) The Coast Guard will provide notice of the regulated areas prior to the event through appropriate means, which may include but is not limited to, the Local Notice to Mariners and Broadcast Notice to Mariners.

(c) Definitions. The following definitions apply to this section:

(1) Designated Representative. A "designated representative" is any commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port, Sector Long Island Sound to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound.

(3) Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(d) Enforcement Period: This section will be enforced from 8:30 a.m. until 3:30 p.m. on August 23, 2014 and from 8:30 a.m. until 6:30 p.m. on August 24, 2014.

Dated: June 30, 2014

H. L. Morrison  
Commander, U. S. Coast Guard  
Acting Captain of the Port, Sector Long Island Sound

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